

With these few provisions, my legislation will do much to advance the cause of employee ownership, making ESOPs more effective and fostering the creation of many more ESOP companies. I thank the House and my colleagues for their time, and I ask that they consider joining me by cosponsoring this legislation.

SECTION-BY-SECTION EXPLANATION OF ESOP PROMOTION AND IMPROVEMENT ACT OF 2004

Makes six amendments to the Internal Revenue Code to improve the operation of existing ESOPs for both the plan sponsor and the employee participants, and in some instances make the creation of a new ESOP easier and more attractive.

Section 1. Clarifies that the 1996 and 1997 laws permitting S corporations to sponsor employee ownership through ESOPs allows S corporation distributions on current earnings (referred to as dividends in C corporations) on ESOP shares to be utilized in the same way as dividends under a 1984 law and 1986 law applying to dividends in a C corporation. Specifically, this section would permit the distributions from current earnings by an S corporation on ESOP stock to be passed through to employees without the 10 percent early withdrawal tax currently imposed on the employees. It would also permit distributions on current earnings on ESOP stock to be used to pay the ESOP acquisition debt. Regular income tax will still be due and, in keeping with current law, the S corporation would not be permitted a tax deduction for the distributions from current earnings on ESOP stock. *(The distributions from current earnings are not to be confused with regular contributions to the ESOP by the S corporation which would still continue to be subject to early withdrawal penalties if withdrawn by an employee before death, termination, disability, or retirement.)*

Section 2. Permits the seller of stock to an S corporation ESOP to utilize the current law ESOP tax deferral rollover tax benefit (IRC 1042), under the same restrictions applied to sellers to C corporation ESOPs. In general, to take advantage of IRC 1042, the ESOP must hold at least 30 percent of the corporation's highest class of stock at close of transaction, and the seller must reinvest the proceeds of the sale into the equities of operating U.S. corporations. If these conditions and others are met, the seller may defer the capital gains tax on his or her proceeds until he or she disposes of the qualified replacement property acquired with the sale proceeds. Furthermore, the benefit is applicable only to sales of non-publicly traded stock.

Section 3. Reverses a series of federal court decisions that have upheld a 1989 regulation by the Internal Revenue Service that includes tax deductions taken for dividends paid on ESOP stock when calculating a C-corp's AMT liability. This IRS regulation imposes the corporate AMT under an interpretation of IRC Section 56 that deductible ESOP dividends are included under the preference item known as ACE, or adjusted current earnings. Despite reasoned challenges to the IRS regulation by three taxpayers, courts have upheld the IRS regulations.

Section 4. Makes two minor changes to IRC Section 1042 (first enacted in 1984). The changes would make this ESOP tax benefit more reasonable, particularly due to developments since its enactment. Specifically, this section permits the proceeds from a 1042 sale to be reinvested in mutual funds that are invested in U.S. equities, and provides that an owner of 25 percent or more of one class of non-voting stock will not be automatically prohibited from participating in an ESOP with 1042 securities, and aggregates

the 25 percent owner restriction on participation in a 1042 ESOP to all of the outstanding shares of the corporation, not just one class of shares.

Section 5. Permits early withdrawals from ESOPs (as with other ERISA plans) for purposes of a first time home purchase or payment of college tuition, with various restrictions, including that the withdrawal may not be more than 10 percent of an account balance, and the individual has had to participate five years in the ESOP.

PAYING TRIBUTE TO SCOTT TUCKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 9, 2004

Mr. McINNIS. Mr. Speaker, it is my privilege to rise today to recognize Scott Tucker of Golden, Colorado. Recently, Scott announced his retirement from his position as the executive director of the Urban Drainage and Flood Control District. As he moves on to future challenges, I would like to acknowledge his dedication and commitment to better his community before this body of Congress and this nation.

Scott has committed his career to addressing and solving problems pertaining to water resources in urban communities. After receiving a bachelor's and master's degree in civil engineering, Scott began his career in water resources. He first came to work in Colorado in 1970 for the Urban Water Resources Research Program. Two years later he joined the Urban Drainage and Flood Control District, where he is now the Executive Director. As Executive Director, he oversaw programs involving master planning, design and construction, maintenance, floodplain management, and projects involving the South Platte River. He retires from Urban Drainage and Flood Control District after thirty-two years of service.

In addition to his work in water resources, he is an active member of his community. As an avid skier, he is involved in the National Ski Patrol System, where he holds the leadership position of Treasurer. Additionally, he participates in competitive bicycle racing and is a member of the Bicycle Racing Association.

Mr. Speaker, it is a pleasure to honor the accomplishments and service of Scott Tucker. Scott has dedicated his career to dealing with an issue many people take for granted, water as a resource. His leadership at the Urban Drainage and Flood Control District will be greatly missed, and I wish Scott all the best in his future endeavors.

A TRIBUTE TO REGINA KIM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 9, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor Regina Kim in recognition of her assistance to victims of domestic violence and abuse.

For the past 16 years Regina Kim has reached out to thousands of helpless, desperate, and battered women. As the Executive

Director of the Korean Family Counseling and Research Center, Regina assists women victims of domestic violence, physical and mental harassment, and substance abuse with her compassion and dedication. Through counseling and a 24-hour hotline, crisis intervention services, victim advocacy and public education, the Center's mission of helping women and girls taking charge of their lives is put in practice every day. Regina's round-the-clock dedication to those in need is both inspiring and heartwarming.

The Korean Family Counseling and Research Center was the only counseling center for New York's Korean community when it was founded 31 years ago. Today, the rapid growth in Korean immigration to our city has increased the important role of the center.

By providing hope and encouragement to countless women and their families, Regina has won admiration from her colleagues, the local community, as well as people in Korea. In 1992, she was presented the Social Services Recognition Award by the Korean government for her contribution to the Korean-American community. She has also been honored by the City of New York with an award for Distinguished Leadership in the field of Social Services and an award for Exemplary Leadership, Commitment, and Advocacy on Behalf of all New Yorkers.

Regina was educated at the Chong-gu College in Dae-gu, Korea and at the St. Stephens Outreach Network (Social Welfare). She is an active member of The Advisory Council on Democratic and Peaceful Unification and the Civil Air Patrol. This organization also presented her with an award for Distinguished Social Services.

Mr. Speaker, Regina Kim has helped thousands of women who have been victims of domestic violence and abuse. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 8, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4754) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, and for other purposes.

Mr. HINOJOSA. Mr. Chairman, I rise today in strong opposition to the Tancredo amendment.

Earlier this summer, I came to the floor to oppose a similar amendment, and I felt obligated, as an American, to come to the floor today to oppose this misguided one.

Community policing has been successful in our diverse neighborhoods because police have proactively convinced immigrants that they should come forward and talk to local police. Mr. Tancredo's amendments would instill additional fear in immigrants, already under attack from certain political forces despite our Nation's history of welcoming them.